

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 SS-20 L-03 EB-11 SP-03 COME-00 CIAE-00

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FM AMEMBASSY ROME

TO SECSTATE WASHDC PRIORITY 6129

INFO TREASURY DEPT WASHDC PRIORITY

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E.O. 11652: N/A

TAGS: EFIN, IT

SUBJECT: STATUS OF DOUBLE TAXATION CONVENTION DISCUSSIONS

TREASURY FOR GORDON

REF: (A) STATE 158902

(B) ROME 8972

(C) TREASURY 032029Z JULY 1974

1. SUMMARY. EMBASSY DELIVERED US NOTE VERBALE
CONTAINED REF A TO FOREIGN MINISTRY JULY 24 AND TOOK
COPY (ALSO IN INFORMAL ITALIAN TRANSLATION) TO MINISTRY
OF FINANCE JULY 25. INITIAL INFORMAL REACTION OF
DIRECTOR GENERAL AT MINISTRY OF FINANCE WAS: (A)
GOI AND USG APPEAR TO AGREE THAT CONVENTION SHOULD
COVER NEW PERSONAL AND CORPORATE INCOME TAXES AND
THAT ALL PARTS OF CONVENTION WILL REMAIN IN FORCE
WITH REGARD TO THESE TWO TAXES; (B) NO INTERPRETATION
HAS YET BEEN MADE BY GOI AS TO WHETHER ITALIAN LAW
REQUIRES ANY WITHHOLDING AGAINST LOCAL INCOME TAX (ILOR);
(C) NEW ECONOMIC STABILIZATION MEASURE CALLING FOR
ADVANCE PAYMENTS DURING 1974 ON SOME TYPES OF 1974
PROFESSIONAL INCOME COULD RAISE CURRENT PAYMENTS

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QUESTION SIMILAR TO THAT CONCERNING BASIC ILOR

WITHHOLDING; (D) FORMAL PROTOCOL TO RECOGNIZE THAT PERSONAL AND CORPORATE INCOME TAXES ARE COVERED BY CONVENTION NEED NOT BE RATIFIED BY PARLIAMENT; AND (E) ANY AMENDMENT CONCERNING COVERAGE OF ILOR UNDER CONVENTION AND ANY OTHER AMENDMENTS OF CONVENTION AS RESULT OF FORTHCOMING NEGOTIATIONS WILL REQUIRE RATIFICATION BUT COULD BE MADE RETROACTIVE. END SUMMARY.

2. ORIGINAL ENGLISH VERSION OF US NOTE VERBALE DATED JULY 24 PER REF A WAS DELIVERED TO FOREIGN MINISTRY ON THAT DATE IN REPLY TO ITALIAN NOTE VERBALE OF JUNE 27 (TRANSMITTED BY EMBASSY IN REF B). ON JULY 25 EMBOFFS DELIVERED COPY OF US NOTE VERBALE AND INFORMAL ITALIAN TRANSLATION TO DIRECTOR GENERAL FOR INTERNATIONAL AFFAIRS SEMPRINI AT MINISTRY OF FINANCE. SEMPRINI REVIEWED US NOTE AND GAVE SOME INFORMAL AND PERSONAL OPINIONS ABOUT FOLLOWING DOUBLE TAXATION QUESTIONS.

3. SEMPRINI NOTED, ON READING US NOTE, THAT USG AND GOI SEEMED TO BE AGREED THAT NEW PERSONAL AND CORPORATE INCOME TAXES SHOULD BE COVERED BY DOUBLE TAXATION CONVENTION AND THAT EXISTING DIVIDEND WITHHOLDING RATES SHOULD REMAIN UNCHANGED. IN FACT, HE SAID THAT GOI WAS PREPARED TO ASSURE THAT THESE WITHHOLDING RATES REMAIN IN EFFECT, ON BASIS OF INTERPRETATION. SEMPRINI ALSO SAID THAT HE BELIEVED THAT SUBSTITUTION OF PERSONAL AND CORPORATE INCOME TAXES FOR OLD ITALIAN TAXES LISTED IN ARTICLE I OF CONVENTION CLEARLY IMPLIED THAT REMAINING ARTICLES OF CONVENTION WOULD APPLY HENCEFORTH WITH REGARD TO NEW PERSONAL AND CORPORATE INCOME TAXES.

4. EMBOFFS MADE ARGUMENTS (SHARED BY LOCAL TAX CONSULTING FIRMS) THAT NEW ITALIAN TAX LAW DOES NOT REQUIRE WITHHOLDING AT SOURCE WITH REGARD TO ILOR. THUS, AGREEMENT TO PROPOSAL CONTAINED IN US NOTE VERBALE COULD BE MADE SIMPLY AS INTERPRETATION OF ITALIAN LAW, WITHOUT NEED FOR ANY OTHER LEGAL AUTHORITY LIMITED OFFICIAL USE

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ON PART OF GOI. SEMPRINI ADMITTED THAT LAW COULD BE INTERPRETED AS NOT REQUIRING WITHHOLDING AND THIS, TOO, WAS HIS PERSONAL OPINION BUT NO SUCH OFFICIAL INTERPRETATION HAS YET BEEN APPROVED.

5. WE HAVE ONLY JUST REALIZED POSSIBLE IMPLICATIONS FOR TREATY OF PART OF ITALIAN ECONOMIC STABILIZATION PROGRAM WHICH CONCERNS NEW TAX MEASURES. PART OF

TAX PACKAGE, WHICH ALREADY ENTERED INTO FORCE ON JULY 7, BUT WHICH MUST BE RATIFIED WITHIN 60 DAYS, CALLS FOR ADVANCE PAYMENTS IN LATE 1974 ON INCOME EARNED DURING 1974 BY ARTISTS, PROFESSIONALS, ARTISANS, ETC. IN OTHER WORDS, SOME TAX MAY HAVE TO BE PAID CURRENTLY ON TYPES OF INCOME WHICH ARE SUBJECT TO ILOR, THUS CREATING PROBLEM OF CURRENT PAYMENTS SIMILAR TO THAT WHICH HAS ALREADY ARISEN REGARDING WITHHOLDING UNDER EXISTING ILOR LAW. AS WITH SIMILAR TYPE OF INCOME NOW SUBJECT TO 20 PERCENT WITHHOLDING, IT IS NOT CLEAR WHETHER NEW ADVANCE PAYMENTS APPLY, NECESSARILY, AGAINST ILOR LIABILITY OR WHETHER THEY MAY BE CONSIDERED AS EXCLUSIVELY APPLICABLE TO TAX LIABILITIES ARISING UNDER PERSONAL AND CORPORATE INCOME TAX. NEW MEASURE (WHICH COULD BE CHANGED DURING RATIFICATION PROCESS) CALLS FOR PAYMENT OF 10 PERCENT OF USCH TAXABLE INCOME EITHER IN TWO TRANCHES IN SEPTEMBER OR NOVEMBER 1974 OR IN ONE TRANCHE IN NOVEMBER. THUS, IF THESE PAYMENTS ARE CONSIDERED TO BE PAYMENTS AGAINST ILOR, THERE IS STILL SOME TIME BEFORE THEY MUST BE MADE, DURING WHICH THE STATUS OF WITHHOLDING AND ADVANCE PAYMENTS AGAINST ILOR HOPEFULLY MAY BE CLARIFIED. SEMPRINI SAID THAT MINISTRY WOULD HAVE TO LOOK INTO THIS ASPECT OF ILOR, AS WELL AS INTO BASIC 20 PERCENT WITHHOLDING QUESTION.

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TREASURY FOR GORDON

6. SEMPRINI SAID THAT, WHILE ITALIAN AUTHORITIES CAN ASSURE USG THAT EXISTING DIVIDEND WITHHOLDING RATES WILL CONTINUE WITHOUT CHANGE, THEY WOULD STILL LIKE TO CONFIRM THIS INTERPRETATION THROUGH EXCHANGE OF BRIEF PROTOCOLS WHICH WOULD INDICATE THAT PERSONAL AND CORPORATE INCOME TAXES SUBSTITUTE FOR TAXES LISTED IN ARTICLE I OF CONVENTION. THIS PROTOCOL WOULD NOT HAVE TO BE RETIFIED BY PARLIAMENT.

7. SEMPRINI WAS ANXIOUS TO BEGIN NEGOTIATIONS ON ILOR AND OTHER POSSIBLE REVISIONS OF TREATY AS SOON AS POSSIBLE. HE WAS DISAPPOINTED WHEN EMBOFFS EXPLAINED THAT LATEST US NOTE VERBALE DID NOT AFFECT PREVIOUS NOTICE OF POSSIBLE TERMINATION OF TREATY AT END-YEAR. HE DESCRIBED US NOTIFICATION AS "SWORD OF DAMOCLES" HANGING OVER NEGOTIATORS IN COMING MONTHS. HE THOUGHT THAT RATIFICATION WOULD LIKELY BE REQUIRED OF PROTOCOL DEALING WITH ILOR AND ANY OTHER AMENDMENTS TO 1955 CONVENTION. SEMPRINI WARNED THAT RATIFICATION OF SUCH A PROTOCOL MIGHT VERY WELL NOT BE APPROVED BY PARLIAMENT UNTIL SOME TIME IN 1974, ALTHOUGH PROTOCOL COULD BE MADE RETROACTIVE.
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8. SEMPRINI PROMISED TO REVIEW LATEST US NOTE VERBALE AND TO TALK WITH OFFICIALS AT FOREIGN MINISTRY ABOUT IT SO THAT GOI COULD PREPARE NOTE VERBALE IN REPLY TO LATEST US NOTE AND COULD CONSIDER ISSUANCE OF PROPOSED PRESS COMMUNIQUE PER REF C. FORMAL PROTOCOL TO SUBSTITUTE PERSONAL AND CORPORATE INCOME TAXES IN ARTICLE I OF TREATY COULD BE DRAFTED AND EXCHANGED SUBSEQUENTLY. SEMPRINI PROMISED TO GET IN TOUCH WITH EMBASSY, IF AT ALL POSSIBLE, BY JULY 31 TO GIVE GOI REACTION TO US NOTE VERBALE.

9. SMALL TECHNICAL POINT AROSE IN CONNECTION WITH SIXTH PARAGRAPH OF NOTE VERBALE, WHICH REFERS TO REMITTING OF AMOUNT OF ILOR LIABILITY AT SAME TIME AS SUBMISSION OF ILOR TAX RETURN. IN FACT, TAX RETURN IS SUBMITTED FIRST AND PAYMENTS MADE ONLY SUBSEQUENTLY, AFTER TAX AUTHORITIES HAVE ASSESSED TAX LIABILITY. THIS SMALL POINT IS NOT IMPORTANT IN NOTE VERBALE BUT SHOULD EVENTUALLY BE CORRECTED IN PRESS RELEASE, WHERE IT APPEARS IN THIRD PARAGRAPH. VOLPE

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